

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DONALD MILLER, III, By and)
Through His Parents and) Civil Action
Legal Guardians,) No. 08-cv-00273
Donald and Tina Miller, Jr.,)
Plaintiffs)
vs.)
PENN MANOR SCHOOL DISTRICT and)
PENN MANOR SCHOOL DISTRICT)
BOARD OF DIRECTORS,)
Defendants)

O R D E R

NOW, this 30th day of September, 2008, upon
consideration of the following documents:

(1) Motion for Preliminary Injunction, which motion was filed on behalf of plaintiffs on January 17, 2008; together with

(1) (A) Brief in Support of Motion for Preliminary Injunction, which brief was filed January 18, 2008;

(1) (B) Letter dated April 25, 2008 forwarding a case from counsel for plaintiffs, Leonard G. Brown, III, Esquire;

(1) (C) Letter dated August 5, 2008 forwarding a case from Attorney Brown;

(1) (D) Letter dated September 3, 2008 forwarding a case from Attorney Brown;

(1) (E) Response of Defendants, Penn Manor School District and Penn Manor School District Board of Directors, in Opposition to Plaintiff's Motion for Preliminary Injunction, which response was filed February 25, 2008; and

(1) (F) Letter brief dated August 8, 2008 from counsel for defendants, Kevin M. French,

Esquire, in response to the August 5, 2008 letter from Attorney Brown;

(2) Plaintiff's Proposed Findings of Fact and Conclusions of Law, which were filed March 13, 2008; together with

(2) (A) Memorandum in Support of Plaintiff's Findings of Fact and Conclusions of Law, which memorandum was filed March 13, 2008;

(3) Proposed Findings of Fact and Conclusions of Law of Defendants Penn Manor School District and Penn Manor School District Board of Directors, filed March 14, 2008; together with

(3) (A) Memorandum in Support of Defendants' Findings of Fact and Conclusions of Law, which memorandum was filed March 14, 2008;

upon consideration of the pleadings, record papers, and hearing exhibits; after hearing held March 20, 2008; and for the reasons articulated in the accompanying Opinion, including Findings of Fact and legal Discussion,

IT IS ORDERED that plaintiffs' Motion for Preliminary Injunction is granted in part and denied in part.

IT IS FURTHER ORDERED that the portion of Penn Manor School District Policy 220 adopted February 8, 1999 entitled School Expression which prohibits expressions that: "Seek to establish the supremacy of a particular religious denomination, sect or point of view," is deemed unconstitutionally overbroad and vague.¹

¹ I note that on February 4, 2008 the Penn Manor School District revised District Policy 220 and removed the offending language regarding religious expression.

IT IS FURTHER ORDERED that defendants Penn Manor School District, Penn Manor School District Board of Directors, their employees, agents or assigns are preliminarily enjoined and restrained from enforcing or reenacting that portion of former District Policy 220 which prohibits expressions that: "Seek to establish the supremacy of a particular religious denomination, sect or point of view," until the entry of final judgment in this matter or further Order of court.

IT IS FURTHER ORDERED that the portion of the Penn Manor School District Student Handbook that prohibits any student dress or expression that "is a distraction to the educational environment," is deemed unconstitutionally overbroad and vague.

IT IS FURTHER ORDERED that defendants Penn Manor School District, Penn Manor School District Board of Directors, their employees, agents or assigns are preliminarily enjoined and restrained from enforcing the portion of the Penn Manor School District Student Handbook that prohibits any student dress or expression that "is a distraction to the educational environment," until the entry of final judgment in this matter or further Order of court.

IT IS FURTHER ORDERED that pursuant to Federal Rule of Civil Procedure 65(c) this Order be and is hereby conditioned upon Plaintiffs' filing with the Clerk of this Court an undertaking in the form of a bond, certified check, cash or other

form of security acceptable to the Clerk of Court in the amount of \$5,000.00 no later than October 8, 2008, receipt of which will be acknowledged by the Clerk of Court to secure the payment of such costs and damages not to exceed such sum as may be suffered or sustained by any party who is found to be wrongfully restrained by this Order.

IT IS FURTHER ORDERED that in all other respects plaintiffs' Motion for Preliminary Injunction is denied.

BY THE COURT:

/s/ JAMES KNOLL GARDNER

James Knoll Gardner

United States District Judge